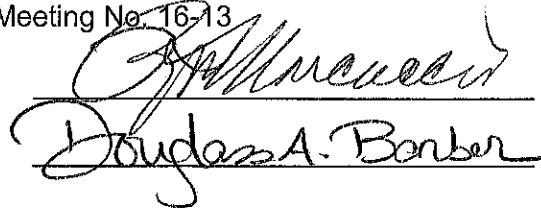


Approved: Meeting No. 16-13

Attest:



The image shows two handwritten signatures. The first signature is in cursive and appears to be 'Phyllis Marcuccio'. The second signature is in cursive and appears to be 'Douglas A. Barber'. Both signatures are written over horizontal lines.

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
February 11, 2013
Meeting No. 06-13
7:00 p.m.

Present:

Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala

Staff Present:

City Manager Barbara Matthews, City Clerk/Treasurer Doug Barber, and City Attorney Debra Daniel.

1. Convene

The Mayor and Council convened in a regular meeting at 7:00 p.m. on Monday, February 11, 2013, in the Mayor and Council Chambers, City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

City Clerk Doug Barber reported that there were no changes to the agenda.

4. City Manager's Report

City Manager Barbara Matthews reported that Monday, February 18 is the President's Day holiday and though City Hall will be closed, she reminded people to check the website for those facilities that would be open. Ms. Matthews thanked the staff of the Rockville Municipal Swim Center for their efforts in saving the life of a patron who was swimming. She said that it is rewarding to see that the training that staff receives paid off in this manner and helped to save the life of that swimmer.

5. Announcement of Vacancies

Mayor Marcuccio announced vacancies to the following Boards and Commissions: Board of Supervisors of Elections; Cultural Arts Commission; Human Rights Commission; Planning Commission; and the Rockville Housing Enterprises.

6. Citizen's Forum

Citizen

Issue

Marshall Levy

Support for Senior Center Budget

Ida Wallenmeyer

Request for reconsideration of the Anderson Alley Abandonment

Phyllis Wallenmeyer

Anderson Alley Abandonment; would like for Mayor and Council to hold a public hearing on the issue

James Wallenmeyer

Anderson Alley Abandonment; created a Facebook page containing information on rain gardens

Jose Linan

Why no left turn onto 355 (at Mobile Gas Station) on West Edmonston Drive; pothole on Veirs Mill Road; he received a photo radar ticket and was troubled by the fact that the City does not accept credit cards

Roald Schrack

Board of Supervisors of Elections Report dated February 4, 2013; County voter database is a moving target

Susan Baker

Rockville ballet program participant and teacher; appreciates the program

Beryl Finberg

Rockville Community Coalition will host a debate on 3/21 regarding the proposed changes from the Charter Review Commission

Andrea Jolly

Request for funding for the high performance buildings tax credit

Sue Adams

Anderson Alley Abandonment and her good relationship with the Wallenmeyers

Marshall Levy

Budget considerations for the Rockville Senior Center

7. Mayor and Council's Response to Citizen's Forum and Announcements

Councilmember Tom Moore

Can the City look into accepting Credit Cards?

Mayor Marcuccio

Responded to Mr. Linan's comments on no left turn at Edmonston and 355 and will have staff look into this.

8. Mayor and Council Reports

Councilmember Pierzchala reported that he travels by the Swim Center frequently and is happy to see the progress of the bath house construction. Mayor Marcuccio attended the Maryland Mayor's Meeting this past week and said that Ed McMahon was the keynote speaker and showcased Rockville as a good example. Some issues discussed at the Conference included the pending ethics legislation; highway user revenue and some good signs that the economy is turning around.

9. Introduction and Adoption of Ordinance to Approve Zoning Ordinance Text Amendment TXT2013-00235, for the Purpose of Requiring all Site Plan Applications within the Town Center Performance District to be Processed as at Least a Level 2 Site Plan; and Also Require for any Level 2 or Project Plan Application that Notice be Provided to all Civic and Homeowner's Associations; Mayor and Council, Applicant .

Chief of Planning Jim Wasilak presented the staff report and said that this proposed text amendment would revise Section 25.07.02 of the Zoning Ordinance to amend the procedures for the filing and processing of site plan applications in the Town Center Performance District. It would also revise Section 25.07.03 to require notice of the filing of any Level 2 Site Plan or Project Plan application with all of the City's Civic and Homeowner Associations. Mr. Wasilak said the action this evening reflects the direction that the Mayor and Council provided staff at the January 28, 2013 meeting.

Councilmember Pierzchala introduced the ordinance.

Motion: to waive the layover period for adoption of the ordinance.

Moved by Councilmember John F. Hall, Jr., seconded by Councilmember Bridget Donnell Newton and unanimously approved.

Motion: to adopt Ordinance to Approve Zoning Ordinance Text Amendment TXT2013-00235, for the Purpose of Requiring all Site Plan Applications within the Town Center Performance District to be Processed as at Least a Level 2 Site Plan; and Also Require for any Level 2 or Project Plan Application that Notice be Provided to all Civic and Homeowner's Associations; Mayor and Council, Applicant.

Moved by Councilmember Bridget Donnell Newton and seconded by Councilmember Mark Pierzchala.

In discussion, Councilmember Moore said that he would vote against this because it is his belief that the City is reacting to something that has already happened. He is not desirous of adding another layer of complexity for development, especially in an area that the City wants to develop.

A vote was taken on the motion with Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approving, and Councilmember Tom Moore opposing.

Motion carries 4-1.

10. Discussion with the City of Rockville Board of Supervisors of Elections

Chair of the Board of Supervisors of Elections (BSE), Lois Neuman presented this item for the Mayor and Council. She introduced those members of the BSE that were present and thanked the previous Chair and member Dave Celeste who recently stepped down after serving for twenty years. Ms. Neuman said that one of the roles of the Board of Supervisors of Elections is to review each election to identify issues that arise to help improve the election process for the voters and candidates. After the 2011 election, Ms. Newman said that two post-election wrap-up meetings were held and opened to the public. As a result of those meetings, the BSE identified 6 areas where there were concerns or that needed attention, as follows: process for withdrawal of a candidate; forms for Campaign Finance Reports and Campaign Filing Deadlines; the County-provided voter database; voting methods; and process complaints and outreach efforts. Ms. Neuman said that the BSE explored these matters in depth and has arrived at recommendations, some of which require action on the part of the Mayor and Council. At the conclusion of Ms. Neuman's presentation there was broad and general discussion and the Mayor and Council directed staff to:

Withdrawal of a Candidate - The Mayor and Council accepted the BSE's proposed language and instructed staff to amend Chapter 8 of the Code to address the process for the withdrawal of a candidate.

Campaign Finance Reports - The Mayor and Council did not agree with the BSE's recommendation to make no change at this time and instructed staff to research the matter further and revise selected forms, as well as the instructions, for distribution in the 2013 Candidate Information Election Packet.

Deadline for Campaign Finance Reporting Dates - The Mayor and Council instructed staff to change the second reporting filing date from October 31 to October 28 so that the information could be available to media prior to the election.

County Voter Database - The Mayor and Council instructed staff to review this further with respect to the format, cost, and other issues; what is practical and what is not in terms of the City providing the voter database?

Voting Methods - The Mayor and Council agreed with the BSE recommendation to make no change to the voting methods and that the City will continue to use the Montgomery County Board of Election's equipment.

Regarding complaints and campaign conduct, Ms. Neuman indicated that the Board will identify specific items to address so that there will be a mechanism for the Board to use when these types of issues arise.

11. Review and Comment - Second Quarter FY 2013 Financial Report

Budget and Finance Manager, Stacy Webster presented this item for the Mayor and Council and said that the report presents FY 2013 revenue and expenditure data for the City's General and Enterprise funds. This report includes the FY 2013 adopted and amended budgets, FY 2013 actual expenditures and revenues through December 31, 2012, and fund and cash balances for the second quarter. Ms. Webster said that historical data for the same time period last fiscal year is also included for comparative purposes. There was broad and general discussion after which the Mayor and Council accepted the report as filed.

Motion: to accept the second quarter FY2013 Financial Report as filed.

Moved by Councilmember John F. Hall, Jr., seconded by Councilmember Bridget Donnell Newton and unanimously approved.

12. Introduction of Ordinance to Amend Ordinance #18-12 to Appropriate Funds and Levy Taxes for Fiscal Year 2013

Councilmember John F. Hall, Jr. introduced the ordinance.

Budget and Finance Manager Stacy Webster, addressed the mayor and Council presenting the FY2013 revenue and expenditure data for the City's General Enterprise Funds. The report includes the FY13 adopted and amended budgets, FY 2013 actual expenditures and revenues through December 31, 2012, and fund and cash balances for the second quarter. Ms. Webster said that historical data for the same time period last fiscal year is also included from comparative purposes.

13. Presentation - FY 2014 Budget Preview

City Manager Barbara Matthews presented the Mayor and Council with the staff report on this item and said that the report includes information that has been updated since the last budget preview in December 2012. This updated information includes property tax revenue projections, operating expenditure projections, and utility rates. Ms. Matthews said that after the proposed budget is introduced in March, there will be many opportunities for the Mayor and Council to discuss and deliberate the budget during the worksessions that are scheduled for April and May. Using a Power Point presentation, Director of Finance Gavin Cohen highlighted some of the significant changes that are being considered for the Fiscal Year 14 budget and this was followed by broad and general discussion relating to general fund expenditures and revenues and enterprise funds. Some of the topics discussed by the Mayor and Council included personnel (elimination and/or freezing of open positions); services for seniors; condition of the Rockcrest Recreation Center; importance of HUR funding; real property tax rate; highway revenue user funds; caregiver agency funding; parking rates; utility funds; residential meter increase of 20%; the progress of replacement of water pipes in City and the Stonestreet pedestrian bridge.

14. Approval of the Creation, Structure, and Duties of a Financial Advisory Board

Councilmember Newton noted that she had two minor changes to bullet #6 and bullet #7 to the redlined version that reflects the discussion held at the previous meeting. There was discussion on the requirement of whether the Financial Advisory Board (FAB) would be required to advertise their meetings and City Attorney Daniel responded that, as with any other Board or Commission, the FAB would have to advertise its meetings and this is covered under State law. There was some discussion on whether or not the FAB would be required to file a Financial Disclosure form. Councilmember Moore said that because the FAB will be making financial recommendations to the City, he thinks that some sort of disclosure might be necessary so that the public will have confidence that the Board is providing absolutely unbiased and disinterested recommendations to the Mayor and Council. Councilmember Newton disagrees and said that this Board would be advisory only and to place an additional burden on its members may preclude some from applying to serve. Councilmember Pierzchala suggested adding language in the enabling legislation that would require that a member declare if they have a conflict of interest. City Attorney Daniel said that all Boards and Commission are required to disclose conflicts and gifts.

Councilmember Pierzchala wondered about a one-time sunset clause that would reevaluate the Board after a period of five years to determine whether to continue or not. He said that it would make sense to apply this to any other future board that is created. Councilmember Newton said that the Council already has the ability to disband a Board if it is their desire. There was discussion on the addition of language dealing with the Financial Advisory Board having to share any findings and/or consult with the Finance Department prior to disseminating any information to the Mayor and Council. There was consensus to include language under item No. 1 to add language to read "at the discretion of the Mayor and Council, "consult with finance department."

Motion: to add language under Item No. 1 in the Proposal for the Establishment of a Financial Advisory Board Reflecting Mayor and Council Revisions of February 4, 2013 to read as follows: *Review and evaluate the financial consequences of any program or proposal, as may be requested by the Mayor and Council. The Board may be asked to analyze research, assess alternatives, consult with the Finance Department and make appropriate recommendations to the Mayor and Council.*

Moved by Councilmember Tom Moore, seconded by Councilmember Mark Pierzchala, and unanimously approved.

In discussion, Councilmember Newton believes that the Board would consult with the Finance Department staff every step of the way and worries that there may be unintended consequences unintended consequences of adding further constraints.

A vote was taken on the motion with Councilmembers John F. Hall, Jr., Tom Moore, and Mark Pierzchala approving, and Mayor Marcuccio and Councilmember Bridget Donnell Newton opposing.

Motion Passed: 3 approved - 2 opposed - 0 abstained

Motion: to approve the Creation, Structure, and Duties of a Financial Advisory Board as revised both February 4, 2013 and this evening.

Moved by Councilmember John F. Hall, Jr., duly seconded by Councilmember Tom Moore and unanimously approved.

15. Review and Comment Regarding Mayor and Council Action Report

Concerning the traffic issues on Darnestown Road and in view of the accident this last weekend, Councilmember Newton said that the Mayor and Council need a higher level of discussion on this matter and would like to see this placed on an upcoming agenda. Regarding the Town Square Merchant's meeting, Councilmember Newton requested that the word "agreed" be replaced with the word "offered." There was discussion on the status of a Citizens' Forum policy and Assistant City Manager Jenny Kimball said that she has started research but has not been able to find a good model. She asked the Mayor and Council to put this off a little bit longer so that she has more time to devote to it.

16. Review and Comment Regarding Future Agendas

Councilmember Newton mentioned that the first public hearing on the budget is scheduled for April 1 which is the last day of spring break for the Montgomery County Public Schools. Ms.

Newton also pointed out that there is no Mayor and Council meeting on March 25 and at some point she would like to discuss the future meeting schedule of the Mayor and Council.

17. Old/New Business

Referencing an email exchange that took place recently that involved a policy decision, Councilmember Pierzchala would like to see some guidelines developed on the issue of email conversations and what is legally allowable.

18. Adjournment

There being no further business, the meeting adjourned at 11:28 p.m.

Motion: to adjourn.

Moved by Councilmember John F. Hall, Jr., seconded by Councilmember Tom Moore and unanimously approved.